leave the employment. *Held*, that the employer is entitled to an injunction. *Tunstall* v. *Stearns Coal Co.*, 192 Fed. 808 (C. C. A., Sixth Circ.).

For a discussion of the principles involved, see 20 HARV. L. REV. 267, 444; 21 HARV. L. REV. 635; 22 HARV. L. REV. 234.

TRUSTS — FOLLOWING TRUST PROPERTY — CESTUI'S RIGHTS WHEN TRUSTEE BUYS PROPERTY PARTLY WITH TRUST FUNDS. — The plaintiff gave her husband money to be used in part payment of the purchase price of land, there being an agreement that title was to be taken in the plaintiff. The husband took the title in his own name and incurred debts after the purchase. *Held*, that the plaintiff is not entitled to payment out of the proceeds of the land as against her husband's creditors. *Miller* v. *McLin*, 143 S. W. 1008 (Ky.).

Where a wife provides the entire purchase price of land to which her husband takes title, he holds it in trust for her. *Wright* v. *Wright*, 242 Ill. 71, 89 N. E. 789. When trust funds are mixed with the trustee's own money, and invested in a *res*, the decisions vary regarding the *cestui's* rights. The prevailing view is that there is, as against general creditors, a trust of an undivided share in the proportion in which the trust money contributed to the purchase. *Faylor* v. *Faylor*, 136 Cal. 92, 68 Pac. 482; *Mayer* v. *Kane*, 69 N. J. Eq. 733, 61 Atl. 374. Some states allow this only when the *cestui* stipulated for a distinct interest in the *res*. *Leary* v. *Corvin*, 181 N. Y. 222, 73 N. E. 984; *McGowan* v. *McGowan*, 14 Gray (Mass.) 119. The cases are numerous to the effect that when the mixed fund is deposited in a bank to the trustee's account, the *cestui* has an equitable charge on the *res* before the general creditors receive anything. *In re Hallett's Estate*, 13 Ch. D. 696; *National Bank* v. *Insurance Co.*, 104 U. S. 54; *City of Lincoln* v. *Morrison*, 64 Neb. 822, 90 N. W. 905. This view has been reached in some states only when the trust property can be traced into some specific *res*. *Lowe* v. *Jones*, 192 Mass. 94, 78 N. E. 402. But since the trustee should not be allowed to make any profit from manipulating the trust money, on principle it seems that the *cestui* should have the option of a charge, or a trust of a proportionate part of the *res*. This view has some authority. *Greene* v. *Haskell*, 5 R. I. 447; *Bitzer* v. *Bobo*, 39 Minn. 18, 38 N. W. 609. *Cf. Crawford* v. *Jones*, 163 Mo. 577, 63 S. W. 838. See 2 HARV. L. REV. 28; 19 HARV. L. REV. 511. The cases make no distinction between subsequent and prior creditors, such as is relied on in the principal case to vary the general rule.

VENDOR AND PURCHASER — REMEDIES OF VENDOR — ENFORCEABILITY OF IMPLIED LIEN WHEN STATUTE OF LIMITATIONS BARS DEBT. — A. conveyed land to B., taking a note for the price. The note remaining unpaid, A.'s representative instituted suit to enforce a vendor's implied lien. The Statute of Limitations had run on the note. *Held*, that the lien may not be enforced. *Shaylor* v. *Cloud*, 57 So. 666 (Fla.).

A vendor of real estate who conveys without stipulating for security has usually an implied equitable lien on the property conveyed to secure the purchase price. *Mackreth* v. *Symmons*, 15 Ves. Jr. 329; *Acton* v. *Waddington*, 46 N. J. Eq. 16, 18 Atl. 356. *Contra*, *Ahrend* v. *Odiorne*, 118 Mass. 261. It may be enforced at any time when an action might be brought on the debt. *Graves* v. *Coutant*, 31 N. J. Eq. 763. Even if the debt is barred by some technical defense, as infancy or coverture, the lien is good. *Crampton* v. *Prince*, 83 Ala. 246, 3 So. 519. *Cf. Smith* v. *Henkel*, 81 Va. 524. See 2 WARVELLE, VENDORS, 2 ed., § 706. It has been held that the same is true of the Statute of Limitations, on the ground that the statute only bars the legal remedy and that the principle that a lien subsists after the debt is barred applies here. *Hood* v. *Hammond*, 128 Ala. 569, 30 So. 540; *Baltimore & Ohio R. Co.* v. *Trimble*, 51 Md. 99. Other courts argue that since the lien is but an incident of the debt

it cannot survive its principal. *Borst* v. *Corey*, 15 N. Y. 505; *Waddell* v. *Carlock*, 41 Ark. 523. Where the seller retains title his security outlives the debt. *Evans* v. *Johnson*, 39 W. Va. 299, 19 S. E. 623; *Phillips* v. *Adams*, 78 Ala. 225. And where he conveys, expressly reserving a lien in the deed, courts have held likewise, regarding the transaction as an informal mortgage. *Hull's Admr.* v. *Hull's Heirs*, 35 W. Va. 155, 13 S. E. 49; *Coles* v. *Withers*, 33 Grat. (Va.) 186. *Contra*, *Chase* v. *Cartright*, 53 Ark. 358, 14 S. W. 90. But since equity has discretion in limiting equitable rights, it seems proper in the case of an implied lien, which is so closely connected with the legal debt, to apply the analogy of the legal Statute of Limitations, and the weight of authority supports this view. See 2 JONES, LIENS, § 1099; 2 WARVELLE, VENDORS, 2 ed., § 709. But see WOOD, LIMITATIONS, 3 ed., § 232.

WATERS AND WATERCOURSES — APPROPRIATION AND PRESCRIPTION — REASONABLENESS OF METHOD OF APPROPRIATION. — The plaintiff appropriated a certain portion of the flow of a river by means of a water-wheel. A subsequent appropriator built a dam which so backed up the water that there was no longer current enough to run the water-wheel. *Held*, that the plaintiff cannot recover. *Schodde* v. *Twin Falls Land and Water Co.*, U. S. Sup. Ct., Apr. 1, 1912.

By decision and by constitutional provision water-rights in Idaho must be determined by the doctrine of prior appropriation. *Drake* v. *Earhart*, 2 Idaho 750, 23 Pac. 541; IDAHO CONST., Art. 15, § 3. By this doctrine the right of the first appropriator for a beneficial use is unquestionable. *Coffin* v. *Left Hand Ditch Co.*, 6 Colo. 443; *Morris* v. *Bean*, 146 Fed. 423. The method of appropriation must be a reasonably economical one. *Barnes* v. *Sabron*, 10 Nev. 217; *Court House, etc. Co.* v. *Willard*, 75 Neb. 408, 106 N. W. 463. Yet methods ordinarily used are upheld as reasonable, even though wasteful. *Barrows* v. *Fox*, 98 Cal. 63, 32 Pac. 811; *Rodgers* v. *Pitt*, 129 Fed. 932. The principal case involves the question whether a method is unreasonable merely because it necessitates preserving the present height of the water. Previous authority would seem, on the whole, to negative this proposition. *Cf. Cascade Town Co.* v. *Empire Water and Power Co.*, 181 Fed. 1011. See *Proctor* v. *Jennings*, 6 Nev. 83, 90. But *cf. Natoma Water and Mining Co.* v. *Hancock*, 101 Cal. 42, 35 Pac. 334. Later comers ought not to be allowed to force a prior appropriator to use very expensive methods of obtaining water. The use by him of a common method, like a water-wheel, can hardly be regarded as unreasonable. Yet unless it be so regarded, the decision of the principal case seems inconsistent with the appropriation theory.

WATERS AND WATER COURSES — TIDAL WATERS — NATURE OF STATE'S TITLE TO TIDE-FLOWED LANDS. — The state granted to the plaintiff railroad certain tide-flowed lands. *Held*, that the State Land Board should be enjoined from selling the lands to another to construct improvements in aid of navigation thereon, since the state has such an interest as can be passed to a private person. *Corvallis & E. R. Co.* v. *Benson*, 121 Pac. 418 (Or.).

For a discussion of the principles involved, see 18 HARV. L. REV. 341.

WILLS — CONSTRUCTION — CONDITION NOT TO CONTEST WILL. — A will provided that if any beneficiary entered suit to break it he should have five dollars only and his share should be divided among others. The plaintiff, one of the beneficiaries, unsuccessfully contested probate on the ground of forgery. *Held*, that there is no forfeiture. *Rouse* v. *Branch*, 74 S. E. 133 (S. C.).

In England it has been held that no public policy forbids enforcing a condition forfeiting a devise for contesting the testator's competency. *Cooke* v. *Turner*, 15 M. & W. 727. As to personalty, however, a contest based on prob-